

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JANIE L. KINSEY and C.H. KINSEY,)
)
Plaintiffs,)
)
v.) Case No.: 2:05-cv-636-F
)
C. LANCE GOULD, et al.,)
)
Defendants.)

DEFENDANT C. LANCE GOULD'S
MOTION TO DISMISS

COMES NOW Defendant C. Lance Gould and, pursuant to Rule 12(b)(6), Fed. R. Civ. P., moves to dismiss the Complaint and Amended Complaint on the grounds that the Complaint and Amended Complaint fail to state a claim upon which relief can be granted. In support of this motion, this Defendant relies upon the Complaint, Amended Complaint, Memorandum Brief (separately filed), and the Fee Agreeent (attached hereto as **Exhibit A**). To the extent, this Defendant relies upon matters outside the face of the Complaint and Amended Complaint (namely, the Fee Agreement), this Defendant requests that this Motion be treated as one for summary judgment and disposed of as provided in Fed. R. Civ. P. 56.

WHEREFORE, Defendant C. Lance Gould respectfully requests dismissal of the Complaint and Amended Complaint.

/s/ R. Austin Huffaker, Jr.
Bar Number: (ASB-3422-F55R)
Robert C. ("Mike") Brock
Bar Number: (ASB-5280-B61R)

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Attorneys for Defendant
C. LANCE GOULD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon:

Janie L. Kinsey
C.H. Kinsey
420 County Road 250
Headland, AL 36345

by placing same in the United States Mail, postage prepaid and properly addressed
on this the 17th day of August, 2005.

/s/ R. Austin Huffaker, Jr.
Of Counsel